

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW HAMPSHIRE

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CHRISTOPHER D. WELCOME

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v.

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CASE NO. 08-cv-429-SM

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JURY TRIAL DEMANDED

DOMENICK J. YEZZI

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**ORDER REGARDING ELECTRONIC INFORMATION DISCLOSURES AND CLAIMS
OF PRIVILEGE/PROTECTION OF TRIAL PREPARATION MATERIALS**

It appearing before the Court that the parties have reached the follow agreements
regarding electronic information disclosures and claims of privilege/protection of trial
preparation materials,

It is ordered that:

Any Electronic information that is supported by commonly held software will be produced electronically. Any electronic information supported by uncommon software shall be produced in hard copy, subject to a later request for electronic production as appropriate.

The inadvertent production of privileged or work product material will not operate as a waiver, and the producing party has a right to recover the material when it discovers the inadvertent disclosure. "After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The producing party must preserve the information until the claim is resolved." Fed.R.Civ.P. 26(b)(5)(B).

A privilege log will be produced in conjunction with the responses to a party's request for production insofar as any document is not produced at that time based on the assertion of some privilege. The privilege log will be consistent with the requirement under the Rules that it "describe the nature of the documents, communications, or things not produced or disclosed in a matter that ... will enable other parties to assess the applicability of the privilege or protection." Fed.R.Civ.P. 26(b)(5)(A). There will be no requirement to log documents that

were prepared by counsel of record and shared only with counsel and/or its client or prepared by the client and shared only with counsel of record so long as the documents were prepared on or after June 14, 2008.

AND IT IS SO ORDERED this 9 day of December, 2008.

A rectangular box containing a handwritten signature in black ink. The signature is cursive and appears to read "Steven McAuliffe".

The Honorable Steven McAuliffe
CHIEF U.S. DISTRICT JUDGE